

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to income and franchise tax exclusion for qualifying COVID-19 grants and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 302, “Determination of Net Income,” and Chapter 502, “Determination of Net Income,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14, 422.7(62), 422.35(30) and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 422.7(62) and 422.35(30).

Purpose and Summary

This proposed rule making is intended to implement the Iowa income and franchise tax exclusion for qualifying COVID-19 grants contained in 2021 Iowa Acts, Senate File 619, sections 5 through 7 (codified at Iowa Code sections 422.7(62) and 422.35(30)), by identifying, through rule, state grant programs that meet the definition of “qualifying COVID-19 grant” and thus qualify for the exclusion. Iowa law and Iowa administrative rules require an eligible administering agency to notify the Director of the Department of the existence of any grant program it believes may be a qualifying COVID-19 grant program. Grant funds issued from the programs listed in the Department’s rules qualify for the income and franchise tax exclusion. On or about September 15, 2022, the Department was notified by the Iowa Economic Development Authority that certain additional COVID-19 grant programs administered by the Authority may be “qualifying COVID-19 grants” for purposes of the income tax exclusion. This proposed rule making adds the identified qualifying grants to the list of grants eligible for the income and franchise tax exclusion contained in the Department’s rules.

Fiscal Impact

The Fiscal Note for 2021 Iowa Acts, Senate File 619, division III, estimated a reduction of \$9.2 million in fiscal year 2021 and \$1 million in fiscal year 2022. However, the four state grant programs identified in this rule making were not in existence on the date of that Fiscal Note, according to information provided by the Authority, so they were not accounted for in the assumptions used to create the estimate. Based on the Authority’s publicly available information about these additional programs, it is assumed that total funds to be issued under these additional programs will amount to \$43.5 million. The estimated fiscal impact to the State of Iowa of exempting grants made under these programs from Iowa tax is -\$2.4 million in fiscal year 2023.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 20, 2022. Comments should be directed to:

Michael Mertens
Iowa Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0458
Email: michael.mertens@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as described below.

December 21, 2022
3:30 to 4:30 p.m.

Via video/conference call

Persons who wish to participate in the video/conference call should contact Michael Mertens before 4:30 p.m. on December 20, 2022, to facilitate an orderly hearing. A video link or conference call number will be provided to participants before the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 701—302.86(422) as follows:

701—302.86(422) COVID-19 grant exclusion.

302.86(1) No change.

302.86(2) *Qualifying COVID-19 grant programs.*

a. The department is responsible for determining whether a grant program provides a “qualifying COVID-19 grant” as defined in Iowa Code section 422.7(62) ~~as amended by 2021 Iowa Acts, Senate File 619, section 5.~~ In making this determination, and for purposes of the definition of “qualifying COVID-19 grant,” a grant program is “created to primarily provide COVID-19 related financial assistance to economically impacted individuals and businesses located in this state” if that grant program, at the time of its inception, was intended by the administering agency to provide a majority (more than 50 percent) of its financial assistance to or for the benefit of either or both of the following persons economically affected by the COVID-19 pandemic:

- (1) Individuals living in Iowa.
- (2) Businesses that are doing business in Iowa or are deriving income from sources within Iowa.

b. The administering agency shall notify the director of the existence of any grant program it believes may be a qualifying COVID-19 grant program. Upon such notification, the department will request from the administering agency the information necessary to determine whether that program is a qualifying COVID-19 grant as defined in Iowa Code section 422.7(62) ~~as amended by 2021 Iowa Acts, Senate File 619, section 5,~~ and this rule. The administering agency shall provide the department with the requested information within the time frame prescribed by the department in its request. Failure to provide the requested information to the department shall prevent the department from determining that the grant program is a qualifying COVID-19 grant. Grant programs not specifically listed below in paragraph 40.86(2)“e.” 302.86(2)“c.” are not qualifying COVID-19 grants and are not eligible for the exclusion provided in this rule, even if that program may otherwise meet the definition of “qualifying COVID-19 grant” in Iowa Code section 422.7(62) ~~as amended by 2021 Iowa Acts, Senate File 619, section 5.~~

c. The following is an exhaustive list of programs that have been identified by the department as qualifying COVID-19 grants, including a general description of each program’s grant recipients, that may qualify for the exclusion from Iowa net income under subrule 40.86(3) 302.86(3):

(1) to (24) No change.

(25) Iowa bowling center relief fund administered by the economic development authority. Grant recipients include Iowa for-profit bowling centers.

(26) Iowa charter bus relief program administered by the economic development authority. Grant recipients include for-profit charter bus companies with a vehicle fleet registered in Iowa.

(27) Iowa sports entertainment relief program administered by the economic development authority. Grant recipients include certain for-profit and nonprofit sports teams with a home venue located in Iowa.

(28) Iowa fitness center relief program administered by the economic development authority. Grant recipients include for-profit, nonprofit, and local government-owned fitness centers located in Iowa.

302.86(3) *Excluding qualifying COVID-19 grants from Iowa net income.*

a. *Generally.* A grant recipient may subtract a qualifying COVID-19 grant when calculating Iowa net income if all of the following apply:

(1) The grant was issued as part of a qualifying COVID-19 grant program identified in paragraph 40.86(2)“e.” 302.86(2)“c.”

(2) and (3) No change.

b. to d. No change.

This rule is intended to implement Iowa Code section 422.7(62) ~~as amended by 2021 Iowa Acts, Senate File 619, section 5.~~

ITEM 2. Amend rule 701—502.30(422) as follows:

701—502.30(422) COVID-19 grant exclusion.

502.30(1) No change.

502.30(2) *Qualifying COVID-19 grant programs.*

a. The department is responsible for determining whether a grant program provides “qualifying COVID-19 grants” as defined in Iowa Code section 422.7(62) ~~as amended by 2021 Iowa Acts, Senate File 619, section 5.~~ In making this determination, and for purposes of the definition of “qualifying COVID-19 grant,” a grant program is “created to primarily provide COVID-19 related financial assistance to economically impacted individuals and businesses located in this state” if that grant program, at the time of its inception, was intended by the administering agency to provide a majority (more than 50 percent) of its financial assistance to or for the benefit of businesses that are doing business in Iowa or are deriving income from sources within Iowa, and that are economically affected by the COVID-19 pandemic.

b. The administering agency shall notify the director of the existence of any grant program it believes may be a qualifying COVID-19 grant program. Upon such notification, the department will request from the administering agency the information necessary to determine whether that program is a qualifying COVID-19 grant as defined in Iowa Code section 422.7(62) ~~as amended by 2021 Iowa Acts, Senate File 619, section 5,~~ and this rule. The administering agency shall provide the department with

the requested information within the time frame prescribed by the department in its request. Failure to provide the requested information to the department shall prevent the department from determining that the grant program is a qualifying COVID-19 grant. Grant programs not specifically listed below in paragraph ~~53.30(2)“e.”~~ 502.30(2)“c.” are not qualifying COVID-19 grants and are not eligible for the exclusion provided in this rule, even if that program may otherwise meet the definition of “qualifying COVID-19 grant” in Iowa Code section 422.7(62) ~~as amended by 2021 Iowa Acts, Senate File 619, section 5.~~

c. The following is an exhaustive list of programs that have been identified by the department as qualifying COVID-19 grants, including a general description of each program’s grant recipients, that may qualify for the exclusion from Iowa net income under subrule ~~53.30(3)~~ 502.30(3):

(1) to (20) No change.

(21) Iowa bowling center relief fund administered by the economic development authority. Grant recipients include Iowa for-profit bowling centers.

(22) Iowa charter bus relief program administered by the economic development authority. Grant recipients include for-profit charter bus companies with a vehicle fleet registered in Iowa.

(23) Iowa sports entertainment relief program administered by the economic development authority. Grant recipients include certain for-profit and nonprofit sports teams with a home venue located in Iowa.

(24) Iowa fitness center relief program administered by the economic development authority. Grant recipients include for-profit, nonprofit, and local government-owned fitness centers located in Iowa.

502.30(3) *Excluding qualifying COVID-19 grants from Iowa net income.*

a. *Generally.* A grant recipient may subtract a qualifying COVID-19 grant when calculating Iowa net income if all of the following apply:

(1) The grant was issued as part of a qualifying COVID-19 grant program identified in paragraph ~~53.30(2)“e.”~~ 502.30(2)“c.”

(2) and (3) No change.

b. to d. No change.

This rule is intended to implement Iowa Code section 422.7(62) ~~as amended by 2021 Iowa Acts, Senate File 619, section 5.~~